

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

CORY M. SPRINGS,	:	
	:	
Petitioner,	:	Case No. 3:23-cv-352
	:	
v.	:	Judge Thomas M. Rose
	:	
WARDEN, CHILLICOTHE	:	Magistrate Judge Peter B. Silvain, Jr.
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

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**ENTRY AND ORDER OVERRULING OBJECTION TO THE MAGISTRATE  
JUDGE’S REPORT AND RECOMMENDATION (DOC. NO. 3) AND,  
ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE’S  
REPORT AND RECOMMENDATION (DOC. NO. 2.)**

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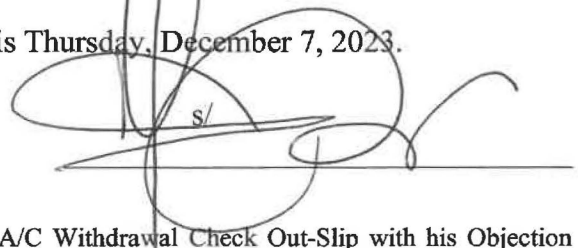
This case is currently before the Court on the Objection to the Magistrate Judge’s Report and Recommendation (the “Objection”) (Doc. No. 3) filed by Petitioner Cory M. Springs (“Springs”) in this 28 U.S.C. § 2254 *habeas corpus* action. On November 27, 2023, Springs filed the instant *habeas corpus* petition and requested that he be permitted to proceed *in forma pauperis*. (Doc. No. 1.) Magistrate Judge Peter B. Silvain, Jr. determined, as an initial matter, that Springs is unqualified to proceed *in forma pauperis*. On November 29, 2023, Magistrate Judge Silvain issued his Report and Recommendation (the “R&R”) finding that Springs “has sufficient funds available to pay the full \$5.00 filing fee in order to institute this action.” (Doc. No. 2 at PageID 61.) Magistrate Judge Silvain ultimately recommended that Springs’ application to proceed *in forma pauperis* be denied and that Springs be ordered to pay the Court’s \$5.00 within thirty (30) days or face dismissal. (*Id.*) In turn, Springs timely filed his Objection, asserting that he has in fact paid the Court’s filing fee. (Doc. No. 3 at PageID 63.)

If a party objects within the allotted time to a United States magistrate judge's report and recommendation, then the Court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* The Court "may also receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

The Court has made a *de novo* review of the record in this case and a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). Upon said review, the Court finds that Springs' Objection to the Magistrate Judge's Report and Recommendation (Doc. No. 3) is not well-taken and is **OVERRULED**. The Court **ACCEPTS** the findings and recommendations made by the magistrate judge, **ADOPTS** the Report and Recommendation (Doc. No. 2) in its entirety, and rules as follows:

1. The Report and Recommendation filed on November 29, 2023 (Doc. No. 2) is **ADOPTED** in full;
2. Springs' application for leave to proceed *in forma pauperis* (Doc. No. 1 at PageID 1-13) is **DENIED**; and
3. Springs is **ORDERED** to pay the Court's full filing fee of \$5.00 within **thirty (30) days** of this Entry and Order.<sup>1</sup> Failure to pay the Court's filing fee as ordered here will result in the dismissal of the instant action.

**DONE and ORDERED** in Dayton, Ohio, this Thursday, December 7, 2023.



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<sup>1</sup> The Court acknowledges Springs' inclusion of a Personal A/C Withdrawal Check Out-Slip with his Objection directing payment to the Clerk of Court. (Doc. No. 3 at PageID 65.) However, this document is immaterial to whether the Court's filing fee has actually been made, received, and processed by the Clerk of Court.

THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE